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7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA CHESS  
FEDERATION, INC., an Illinois not-for-  
12 profit corporation, RANDALL D. HOUGH,  
an individual,

13 Plaintiffs,

14 v.

15 SUSAN POLGAR, an individual,  
16 GREGORY ALEXANDER, an individual  
DOES 1-10, inclusive

17 Defendants.  
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Case No. 3:08-cv-05126-MHP

**DEFENDANT SUSAN POLGAR'S  
OPPOSITION TO CROSS-  
DEFENDANTS' MOTION TO DISMISS  
CROSS-COMPLAINT FOR LACK OF  
PERSONAL JURISDICTION**

Hearing Date: September 28, 2009  
Time: 10:00 a.m.  
Courtroom: 15, 18<sup>th</sup> Floor  
Judge: Hon. Marilyn Hall Patel

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1 **I. INTRODUCTION**

2 Susan Polgar is currently ranked by the World Chess Federation as the number one  
3 female chess player in the United States, and number four in the world. She regularly travels to  
4 California, and all over the world, to compete in tournaments and promote the game of chess.

5 In 2006, she was elected by an overwhelming majority of the USCF membership to a  
6 position on the USCF Executive Board. Thereafter, Plaintiffs and Cross-Defendants  
7 (“Plaintiffs”), each long-term members of the Executive Board, one of whom resides in  
8 California, became threatened by Mrs. Polgar’s insistence that they had been mismanaging the  
9 USCF for their own personal benefit. They began conspiring amongst themselves and another  
10 California resident, Cross-Defendant Karl Kronenberger, to force Mrs. Polgar and her husband,  
11 Paul Truong, from the board by, *inter alia*, hiring Karl Kronenberger to conduct an  
12 “independent” investigation, while misrepresenting to Mrs. Polgar that they were instituting an  
13 unauthorized lawsuit in California against Mrs. Polgar in the USCF’s name, lying to Mrs. Polgar  
14 about the lawsuit, their ongoing “investigation,” and Mrs. Polgar’s requests for indemnification,  
15 obtaining discovery in California against Mrs. Polgar without her authorization or a chance to  
16 challenge it, and then directing Karl Kronenberger to send the results of this discovery obtained  
17 in the California action to third parties with the intent to harm Mrs. Polgar and pressure her and  
18 her husband to resign.

19 Plaintiffs now bring the instant motion to dismiss, arguing that because they did not  
20 personally file the instant lawsuit, or hold their meetings in California, the court lacks personal  
21 jurisdiction over Mrs. Polgar’s claims against them. Plaintiffs’ motion ignores most of the  
22 allegations in Mrs. Polgar’s Cross Complaint and the holdings of the few cases they cite.  
23 Numerous cases—many cited by Plaintiffs themselves—hold that where the directors or officers  
24 of an organization are the personally involved in directing harmful activity that take place in a  
25 forum State, personal jurisdiction over such directors or officers is proper in that forum. *See*,  
26 *e.g.*, *Caldor v. Jones*, 465 U.S. 783, 789-90 (1984); *Keeton v. Hustler Magazine, Inc.*, 465 U.S.  
27 770, 781 (1984); *Davis v. Metro Productions*, 885 F.2d 515, 521 (9<sup>th</sup> Cir. 1989). As these courts  
28

1 held, a person who intentionally take actions in a forum and cause harms in a forum is subject to  
 2 personal jurisdiction in that forum, and simply because they were acting in their “official  
 3 capacity” and causing harms in the name of an organization does not shield them from personal  
 4 jurisdiction. In those cases, there was no allegation that these officers were in violation of the  
 5 organization’s bylaws, or acting in violation of their fiduciary duties. Here, the case for personal  
 6 jurisdiction is even stronger: Mrs. Polgar alleges cross-claims against these individual Plaintiffs,  
 7 rather than against the USCF, because the USCF never authorized the instant lawsuit in  
 8 California, nor the vigorous discovery in the USCF’s name into Mrs. Polgar’s affairs in  
 9 California, nor the USCF’s denial of her request for indemnification for defense of the lawsuit in  
 10 California, nor the other improper acts that have arisen in connection with the California lawsuit.  
 11 *Every one of these acts* was directed by Plaintiffs to take place in California, and under  
 12 Plaintiffs’ own cases and many others, personal jurisdiction over Mrs. Polgar’s claims against  
 13 them is proper.

14 Plaintiffs also make numerous factual allegations in their motion and declarations to their  
 15 Rule 12(b)(2) motion. Almost all of them are either unsupported, transparent attempts to mislead  
 16 the Court as to the nature of the USCF’s and Mrs. Polgar’s contacts with California. To suggest  
 17 that the USCF—which has literally thousands of members, hundreds of chess clubs, and  
 18 numerous tournament directors and organizers in California—“does not perform any business in  
 19 California,” or that Susan Polgar, who is the number one female chess player in the United States  
 20 and who regularly travels to California to make appearances and sells goods there and has a  
 21 warehouse full of merchandise there has no “business interests” in California, is preposterous.

22 Moreover, this is a Rule 12(b)(2) motion; absent an evidentiary hearing or trial on the  
 23 merits, the complaints’ uncontroverted factual allegations must be accepted as true, any factual  
 24 conflicts resolved in Mrs. Polgar’s favor. In any event, the few actual facts that Plaintiffs  
 25 actually allege are *irrelevant*. Where Bill Goichberg, Bill Hall, and James Berry live or work  
 26 does not change the fact that they purposely and knowingly caused substantial harm to Mrs.  
 27 Polgar through actions they chose to take, and continue to take, here in California. Whether they  
 28

1 should be held liable for these actions is a question of law. But under Plaintiffs' own cases, and  
 2 many others, whether this Court has personal jurisdiction over them for claims arising from these  
 3 actions is not even a close question.

## 4 **II. BACKGROUND**

### 5 **A. Plaintiffs Do Not Dispute That They Personally Directed The Filing Of The** 6 **Instant Lawsuit In California, The Discovery In California, The Disclosure** 7 **Of Facts Obtained During Discovery In California, Or The Denial Of Mrs.** 8 **Polgar's Request For Indemnification Of Her Defense Of The Claims Filed** 9 **Against Her In California.**

10 Mrs. Polgar alleges in her Cross-Complaint that Plaintiffs, two of whom are California  
 11 residents, are engaged in an ongoing conspiracy to use the USCF as a vehicle to harm her for  
 12 their own personal benefit in violation of the USCF's bylaws, their fiduciary duties to Mrs.  
 13 Polgar and USCF members, and the laws of California. Mrs. Polgar alleges that Plaintiffs  
 14 improperly and without authorization conspired with parties (located in California) to file a  
 15 lawsuit (in California) against Mrs. Polgar. Mrs. Polgar alleges that this lawsuit was never  
 16 authorized in compliance with the USCF bylaws, and, in fact, violates them in several ways.  
 17 Importantly, Plaintiffs *do not dispute* that they personally directed the purported "independent"  
 18 investigation, the filing of the lawsuit, or the use of the "Jane Doe" procedure in California state  
 19 court. In fact, they have *repeatedly admitted* that they did. *See* Hall Declaration In Response To  
 20 Civil Minute Order Dated April 13, 2009; Hall Declaration In Support of Pls' Request To File  
 21 Sur-Reply. Plaintiffs only allege that (i) they were within their power to file this lawsuit and (ii)  
 22 they directed that this lawsuit be filed in meetings that were not held in California.

23 Mrs. Polgar also alleges that Plaintiffs improperly and without authorization used their  
 24 lawsuit in California to improperly and fraudulently obtain third-party discovery of Mrs. Polgar's  
 25 personal records in California without her knowledge. This discovery includes over twenty  
 26 subpoenas to third parties seeking electronic data and financial information relating to Mrs.  
 27 Polgar's personal affairs. *See* Declaration of M. Springman In Support Of Defendant Susan  
 28 Polgar's Motion To Transfer (Docket No. 54) Ex. N. Nearly every one of these entities has  
 offices, registered agents, and a substantial presence in California, and at least five are



1 incorporated here, including Yahoo, Inc. (2 subpoenas), Google, Anonymizer, Inc., and  
 2 American Express Company. *See id.* Mrs. Polgar alleges that this was in direct violation of the  
 3 USCF bylaws as well as the laws of the state of California, which prohibit the filing of “doe”  
 4 lawsuits where, as here, a plaintiff knows who the defendant is, but seeks to conceal the lawsuit  
 5 from the defendant in order to take third party discovery without the defendants’ knowledge or  
 6 ability to seek relief in California courts.<sup>1</sup> Again, Plaintiffs *do not dispute* that they directed and  
 7 authorized the taking of this discovery. In fact, they admit it. They only allege that (i) the use of  
 8 the Jane Doe procedure and the numerous subpoenas did not violate California law and (ii) they  
 9 directed these efforts in meetings that took place outside of California.

10 Mrs. Polgar alleges that Plaintiffs then directed Mr. Kronenberger (located in California)  
 11 to improperly disseminate information improperly obtained (through the California lawsuit) to  
 12 cause harm to Mrs. Polgar and pressure her and her husband to resign. Again, Plaintiffs *do not*  
 13 *dispute* that Mr. Kronenberger transmitted this evidence to third parties, or that they authorized  
 14 such transmittal. *Compare* Susan Polgar Motion To Disqualify (describing in detail these  
 15 actions) *with* Pls.’ Opp. To Mot. To Disqualify (failing to deny or dispute transmittal of  
 16 information, or suggest that transmittal of information was not authorized); Declaration of  
 17 Whitney Leigh In Support Of Motion To Compel The Production Of Documents Withheld On  
 18 An Invalid Assertion Of Privilege Exhs. I & J (Plaintiffs’ “privilege logs” showing numerous,  
 19

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20  
 21 <sup>1</sup> Plaintiffs allegations in their motion (with no supporting declaration) that they only amended  
 22 the lawsuit to name Mrs. Polgar “after sufficient discovery”. Pls.’ Mot. To Dismiss For Lack of  
 23 Personal Jurisdiction (“MTD”) at 1; *id.* at 8 (claiming that they did not “identify” Mrs. Polgar as  
 24 an “appropriate defendant” until “after the initial discovery was completed”). This directly  
 25 contradicts Mrs. Polgar’s Cross-Complaint, is not supported by any declaration filed by  
 26 Plaintiffs, and should not be considered in any way in deciding this motion. It is also simply  
 27 untrue. Mrs. Polgar has repeatedly requested that Plaintiffs specify what facts they learned  
 28 through this discovery that rendered her an “appropriate defendant.” Plaintiffs have repeatedly  
 refused to do this. Moreover, the *only* evidence Plaintiffs have produced demonstrates that, in  
 fact, they did not discovery *any evidence* against Mrs. Polgar during the Doe period that would  
 cause them to name Mrs. Polgar. Mrs. Polgar has already submitted a detailed record, supported  
 by competent evidence, of Kronenberger’s and the Director Defendants’ misconduct during the  
 Superior Court “doe” discovery period. See, e.g., Docket No. 53 at 6-14; Docket No. 83 at 3-9.



1 repeated communications between Kronenberger and Plaintiffs).

2 Mrs. Polgar alleges that Plaintiffs—acting through Mr. Kronenberger (located in  
3 California) have improperly denied, delayed, and otherwise unfairly obstructed her request for  
4 indemnification for her defense of this lawsuit (located in California), while at the same time  
5 using the USCF to indemnify Plaintiffs against her cross-claims in this lawsuit (located in  
6 California) and to pay for this lawsuit (in California) without the USCF’s authorization. Again,  
7 Plaintiffs *do not dispute* that they have directed the USCF to deny her request for  
8 indemnification, nor the decision to grant themselves indemnification. *See* Leigh Decl. ISO Mot.  
9 To Compel Exhs. L, M, and N.

10 **B. Since The Cross-Complaint, Plaintiffs Have Taken Additional Actions**  
11 **Specifically Designed To Cause Mrs. Polgar Harm In California.**

12 Since Mrs. Polgar filed the Cross-Complaint against Plaintiffs, Plaintiffs have taken  
13 further actions in direct violation of their fiduciary duties to her and the USCF that have had an  
14 immediate and long-term impact on Mrs. Polgar in California and throughout the world. As Mrs.  
15 Polgar recently explained in her Opposition to Plaintiffs’ request to file a Sur-reply, through  
16 violations of nearly every applicable provision of the USCF bylaws, Plaintiffs recently purported  
17 to, *inter alia*, revoke Mrs. Polgar’s basic membership of the USCF and deny her request for  
18 indemnification of the claims in this lawsuit. *See* Polgar Opp. to Plaintiffs’ Req. To File Sur-  
19 Reply; Decl. of Bill Hall In Support of Plaintiffs’ Request For Leave To File Sur-Reply.

20 These actions are a direct continuation of the conspiracy among the Plaintiffs to use the  
21 baseless, unauthorized lawsuit filed here to cause her harm. Plaintiffs’ only justification to the  
22 Board of Delegates for these actions (that Mrs. Polgar is aware of—she was denied access to  
23 nearly all of Plaintiffs’ meetings with the Board of Delegates in direct violation of the USCF  
24 bylaws) were the baseless allegations in their California lawsuit, the “evidence” Plaintiffs  
25 repeatedly claim to have obtained through their discovery conducted in California, and the  
26 mounting legal bills their lawsuit in California is causing the USCF. *See* Leigh Decl. ISO Polgar  
27  
28

1 Opp. To Plts'. Mot. For Leave To File Sur-Reply Ex. H;<sup>2</sup> Again, *Plaintiffs do not dispute* that  
 2 they relied on the instant lawsuit to effect the revocation of Mrs. Polgar's USCF membership and  
 3 her purported "automatic" expulsion from the Board of Directors. In fact, they admit it both in  
 4 filings with this Court and through publication on their own website of a partial recording of one  
 5 of their meetings with the Board of Delegates. *See id.*

6 If left unchecked, these actions will have the effect of causing Mrs. Polgar to become  
 7 further liable for legal fees incurred in defending this lawsuit in California, while, at the same  
 8 time making it difficult, if not impossible, for Mrs. Polgar to compete in chess tournaments in the  
 9 United States (including California) and the throughout the world, because membership in the  
 10 USCF is a requirement in USCF-sanctioned tournaments, USCF official tournaments in the  
 11 United States, and FIFE official tournaments abroad. *See Decl. of S. Polgar In Support of Opp.*  
 12 *To Mot. To Dismiss For Lack of Personal Jurisdiction Ex. D, ¶ 18-21.* Again, *Plaintiffs do not*  
 13 *dispute that they personally directed these actions.* Rather, they only dispute whether they were  
 14 "authorized" to take these actions under the USCF bylaws.

15 **C. The Plaintiffs' Actions Have Had And Will Have Other Immediate Effects In**  
 16 **California.**

17 Aside from utilizing California's courts and discovery procedures in direct violation of  
 18 California's discovery rules in order to harm Mrs. Polgar, Plaintiffs' acts at issue have had, and  
 19 will have, other immediate in California due to the harm caused both to the USCF, the USCF  
 20 members throughout the state and to Mrs. Polgar herself. Plaintiffs claim that the USCF "lacks  
 21 any real contacts with California." MTD at 4. They have each filed declarations claiming that  
 22 "the USCF does not perform any business in California, with the exception of dealing with chess

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23  
 24 <sup>2</sup> Plaintiffs can no longer hide the fact that their improperly authorized lawsuit against Mrs.  
 25 Polgar has nearly bankrupted the USCF; what they can do is baselessly lay the blame for these  
 26 costs on Mrs. Polgar, by claiming that these expenses arose because of her claims in the Texas  
 27 Action against them for libel. What Plaintiffs fail to mention is that their defense of that action is  
 28 provided for by a third party indemnity insurance company, whereas their legal expenses in their  
 action against Mrs. Polgar must be paid by the USCF (or, more specifically, the USCF's  
 members).

clubs, tournament directors and organizers, and enrolling members that *happen* to be located in California.” *See, e.g.*, Goichberg Declaration ¶ 4 (emphasis in original). As explained below, this statement is outrageous, and akin to claiming that that the Boy Scouts, or the National Basketball Association, do not “perform any business” in California, with the “exception of dealing with” scout troops or basketball teams.

Mr. Goichberg also states in his declaration that his own “business” in California (hosting many of these tournaments through his company, Continental Chess) is “unrelated” to the USCF and that “Continental Chess” has “no ownership or other special relationship with USCF.” *See* Goichberg Decl. ¶¶ 1&3.<sup>3</sup> As explained below, these statements are extremely misleading, if not outright falsities, and akin to claiming that the Golden State Warriors, or their games at the Oakland Arena, are “unrelated” to the National Basketball Association.

Finally, Plaintiffs also allege (with no supporting declaration) that “Polgar does not reside, work, or otherwise conduct business or personal relations within California”. MTD at 6. This is an unsupported statement in a pleading and should not be considered; in any event, it is untrue. As explained below, Mrs. Polgar is the number one-ranked woman chess player in the United States. She regularly travels to California to perform in chess tournaments and to appear in chess-related activities. *See* Polgar Decl. Exhs. A & B, ¶¶ 14-16.

#### **1. The USCF’s Extensive Contacts And Activities In California.**

Mrs. Polgar, in seeking election to the USCF Executive Board in 2007, sought to change the way the USCF did business. *See id.* ¶ H. Such changes would undoubtedly have had an effect on California. The USCF is the official national chess federation of the United States and the official federation representing the United States with the World Chess Federation (“FIDE”). It has 78,589 members as of August 31, 2009. *See* Polgar Decl. Ex. C at 1. Approximately 8,722 of these members reside in California, the most of any state. *See id.* at 3. Membership

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<sup>3</sup> The other Cross-Defendants’ declarations similarly imply that these “tournaments” are somehow unrelated to the USCF.

1 requires payment of annual fees to the USCF. *See* Polgar Decl. Ex. H. Membership status  
 2 accords a person the right to a number of things, including, *inter alia*, representation on the  
 3 Executive Board and the Board of Delegates and participation in the election of these positions.  
 4 *See id.* Ex. D. The USCF regularly advertises USCF membership on the internet and in Chess  
 5 Life magazine, both of which are available in California. *See id.* ¶ 6.

6 The USCF regularly promotes tournaments in California, runs these tournaments, and  
 7 strongly encourages membership to play in them. The USCF tracks the “rating” of chess players  
 8 throughout the country; in order for a player’s games in a tournament to count in these ratings,  
 9 the tournament must be officially “sanctioned” by the USCF. *See* Polgar ¶ 7; Ex. D. To be  
 10 sanctioned, a tournament must be organized by a USCF “affiliate” or the USCF itself. *See id.*  
 11 Ex. D. To become a USCF “affiliate,” an organizer must provide dues to the USCF, pay for the  
 12 advertising and listing of the tournament on the USCF website and Chess Life, the official  
 13 magazine published by the USCF, and pay for “rating fees” for each game played during these  
 14 tournaments. *See id.* Ex. D. Mr. Goichberg’s Continental Chess Association is a USCF  
 15 “affiliate,” according to Continental Chess Association’s website. *See* Polgar Decl. Ex. E.

16 The USCF promotes tournaments throughout California held by its “affiliates” by, *inter*  
 17 *alia*, publishing a monthly list of chess tournaments in California on its website and advertising  
 18 these tournaments in its publication Chess Life. *See* Polgar Decl. Ex. F. Aside from actively  
 19 promoting them, the USCF’s entire rating system strongly promotes USCF membership and  
 20 participation in these tournaments. As noted above, the USCF will not “rate” games played in  
 21 tournaments it has not “sanctioned.” *See* Polgar Decl. ¶ 7. Because players want the results of  
 22 their games to count towards their rankings, players join the USCF and play in USCF sanctioned  
 23 and rated events. *See id.*

24 The current list on the USCF website of USCF-sanctioned tournaments in California  
 25 reflects *over thirty tournaments* in California scheduled from August to December of 2009. *See*  
 26 Polgar Decl. Ex. E. Mr. Goichberg is the organizer for two major tournaments in California  
 27 listed on the USCF’s website: the Central California Open, which lists its prize fund as \$15,000,  
 28

1 and the Golden State Open, with a prize fund of \$60,000. *See id.* These tournaments have by far  
 2 the largest prize funds of all the tournaments listed on the USCF website for California. *See id.*

3 Aside from coordinating, sanctioning, co-hosting and extensively promoting these  
 4 tournaments, the USCF is extensively involved in every facet of their operation. The USCF  
 5 requires these tournaments to scrupulously adhere to an official comprehensive rule book that is  
 6 over 370 pages long and sets forth rules governing every aspect of tournament play. *See Polgar*  
 7 *Decl.* ¶ 5, Ex. D. To assure compliance with these rules, the USCF require all tournaments to  
 8 have a certain number of USCF-sanctioned tournament directors. *See id.* These tournament  
 9 directors attend the tournaments and make sure the USCF rules book is followed. Among other  
 10 things, the USCF directors (i) perform the pairings; (ii) monitor the games; (iii) monitor the  
 11 results and the next rounds' pairings; and (iv) rule on any disputes concerning USCF rules  
 12 before, during, or after games. *See id.* After the tournament, the tournament director then sends  
 13 the results of every game in the tournament to the USCF to be rated. *See id.*

14 The USCF then "rates" the games, i.e., publishes updates on its web site of every player's  
 15 rating based on the results of every game the player played in the tournament. *See Polgar Decl.* ¶  
 16 7. The ratings of these players are used by the USCF to select players to compete in the US  
 17 Championship and US Women's Championship, as well as representing the U.S. in International  
 18 events such as the PanAm Youth Championship, World Youth Championship, World Junior  
 19 Championship, Olympiad, Women's Olympiad, World Team Championship, Women's World  
 20 Championship, and World Championship. *See id.* Many of these events offer significant prizes.  
 21 *See id.*

22 The USCF itself also regularly holds and promotes its own tournaments in California.  
 23 The USCF has held "U.S. Open" in 2003 in Los Angeles, and the 2004-2006 U.S. Championship  
 24 in San Diego, California. *See Polgar Decl.* ¶ 10. The 2010 U.S. Open, hosted by the USCF, is  
 25 currently scheduled to be held in Irvine, California from July 31-August 8, 2010. *See id.*

26 The USCF also currently affiliates with more than 2,000 chess clubs nationwide.  
 27 Approximately 105 of these chess clubs are located in California. *See Polgar Decl.* Ex. G. To  
 28

1 become affiliates of the USCF, a chess club pays an annual fee. *See* Polgar Decl. Ex. D.  
 2 Affiliation provides rights to sponsor tournaments, collect commissions on membership dues  
 3 collected, discounts on chess books and equipment, a monthly subscription to Chess Life, the  
 4 USCF rating list and supplements, which provide monthly updates of members' ratings, and the  
 5 right to announce their tournaments in Chess Life, and discounts on advertisements in Chess Life  
 6 to promote their tournaments. *See id.* The USCF advertises affiliation to chess clubs in  
 7 California on its web site and Chess Life magazine. *See id.*

8 The USCF derives the substantial portion of its revenues from tournaments,  
 9 memberships, and affiliations. *See* Polgar Decl. ¶ 13. The USCF Executive Board, to which  
 10 Mrs. Polgar was elected in a vote of the USCF membership in 2006, controls and directs these  
 11 activities.

## 12 **2. Susan Polgar's Repeated Contacts In California.**

13 Mrs. Polgar is currently the number one-ranked woman chess player in the United States.  
 14 *See* Polgar Decl. Ex. A & B. She regularly travels to California to perform in chess tournaments  
 15 and to appear in chess-related activities. For example, Mrs. Polgar has made four appearances in  
 16 California (in Los Angeles, Fullerton, and Fresno) since 2008 to give simultaneous exhibitions  
 17 and lectures. *See* Polgar Decl. ¶ 14. Mrs. Polgar also won the U.S. Open Blitz Championship  
 18 held in California in August of 2003. *See id.* ¶ 15. She also operates an online web chess store  
 19 at [www.polgarchess.com](http://www.polgarchess.com) available in California, and the warehouse which houses the things sold  
 20 through this store is located in Anaheim, California. *See id.* ¶ 16. The Plaintiffs are aware of  
 21 Mrs. Polgar's activities in California. They served her with a copy of the summons and  
 22 complaint in this action when she was visiting the Fresno Chess club in 2008 to give a  
 23 simultaneous exhibition and series of lectures. *See id.* ¶ 14.

## 24 **3. USCF Membership And Tournament Play.**

25 To play in any of the USCF-sanctioned tournaments scheduled in California, or  
 26 throughout the country, the USCF rulebook *requires an active USCF membership*. *See* Polgar  
 27 Decl. Ex. D at 100; ¶ 18. Similarly, a person cannot play in any official USCF / FIDE (World  
 28



1 Chess Federation) tournaments such as the U.S. Championship, U.S. Women's Championship,  
 2 World Championship, Women's World Championship, Olympiad, Continental Championship,  
 3 and World Mind Games unless she is nominated by her own national federation (in Mrs. Polgar's  
 4 case, the USCF).<sup>4</sup> See Polgar Decl. ¶ 19. These official events are considered in the chess  
 5 community as some, if not the, most important tournaments available and normally have some of  
 6 the highest prize purses. See *id.* ¶ 19.<sup>5</sup>

### 7 **III. LEGAL STANDARD**

8 When a motion pursuant to Rule 12(b)(2) for lack of personal jurisdiction is based on  
 9 written materials rather than an evidentiary hearing, the claimant need only make a prima facie  
 10 showing of jurisdictional facts. See, e.g., *Martin Ray Winery v. Graham*, 2007 U.S. Dist. LEXIS  
 11 22858, at \*14 (N.D. Cal. Mar. 28, 2007) (Patel, J.). A prima facie means that the plaintiff need  
 12 only demonstrate facts that if true would support jurisdiction over the defendant. *Id.* "While the  
 13 plaintiff cannot rely solely on the complaint to establish personal jurisdiction, the court must take  
 14 uncontroverted allegations as true and resolve conflicts between the facts contained in the  
 15 parties' affidavits in favor of the plaintiff." *Id.* See also *Dole Food Co., Inc. v. Watts*, 303 F.3d  
 16 1104, 1108 (9<sup>th</sup> Cir. 2002).

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20  
 21 <sup>4</sup> Other national federations have various requirements to become nominated to compete on their  
 behalf in official FIDE events, such as, *inter alia*, citizenship. See Polgar Decl. ¶ 20.

22 <sup>5</sup> Plaintiffs have claimed that their revocation of Mrs. Polgar's USCF membership does not affect  
 23 her ability to "participate" in "USCF-rated" events. For example, during the portion of the one  
 24 meeting with the Board of Delegates that Plaintiffs allowed Mrs. Polgar to attend following their  
 25 wrongful expulsion of her, Plaintiff Bill Hall claimed to the Delegates that revoking Mrs.  
 26 Polgar's membership would not affect her ability to "participate" in USCF rated events. See  
 27 Polgar Decl. ¶ 21. Plaintiffs have never explained how this can be so given the USCF rules, nor  
 28 the extent of this alleged "participation." See *id.* It is thus entirely unclear whether this alleged  
 "exception" exists and is enforceable, whether Mrs. Polgar's "participation" will include being  
 "rated," or whether Mrs. Polgar will be able to actually compete in official USCF or FIDE  
 tournaments as a representative of the USCF.



1 **IV. ARGUMENT: SPECIFIC JURISDICTION EXISTS OVER PLAINTIFFS**  
 2 **BECAUSE THEY WERE “PRIMARY PARTICIPANTS” IN THE WRONGOING**  
 3 **IN CALIFORNIA.**

4 A federal court can assert personal jurisdiction over any defendant “who could be  
 5 subjected to the jurisdiction of a court of general jurisdiction in the state in which the district  
 6 court is located.” Fed. R. Civ. 4(k)(1)(A). The California long-arm statute provides that “[a]  
 7 court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of  
 8 this state or the United States.” See Cal. Code Civ. Proc. § 410.10. Thus, personal jurisdiction is  
 9 available in California to the fullest extent due process permits. *Martin Ray Winery*, 2007 U.S.  
 10 Dist. LEXIS 22858, at \*10-11.

11 Personal jurisdiction under the Due Process Clause may be based on either general or  
 12 specific jurisdiction. *American Tel. & Tel. Co. v. Compagnie Bruzelles Lambert*, 94 F.3d 586,  
 13 588 (9<sup>th</sup> Cir. 1996). Specific jurisdiction exists where (1) the nonresident performs some act or  
 14 consummates some transaction which purposefully avails him of the privilege of conducting  
 15 activities in the forum so as to invoke the benefits and protections of the state’s laws; (2) the  
 16 claim arises out of or relates to the defendant’s forum-related activities; and (3) the exercise of  
 17 jurisdiction is reasonable.” *Martin Ray Winery*, 2007 U.S. Dist. LEXIS 22858, at \*12 (citing  
 18 *Cybersell, Inc. v. Cybersell, Inc.*, 130 F.3d 414, 416 (9<sup>th</sup> Cir. 1997)). Here, all three elements  
 19 exist.

20 **A. Plaintiffs Purposely Availed Themselves Of This Forum.**

21 Whether a party “purposely directed” his activities at a forum depends on whether the  
 22 party took “some act by which the defendant purposefully avails itself of the privilege of  
 23 conducting activities within the forum State, thus invoking the benefits and protections of its  
 24 laws.” *Lake v. Lake*, 817 F. 2d at 1421 (citing *Hanson v. Denckla*, 357 U.S. 235, 253 (1958)).  
 25 This requirement is the test for the fundamental determination of whether “the defendant's  
 26 conduct and connection with the forum State are such that he should reasonably anticipate being  
 27 haled into court there.” *Id.* (quoting *World-Wide Volkswagen*, 444 U.S. 286, 297 (1980)).  
 28

1 This requirement “is based on the presumption that it is not unreasonable to require a  
 2 defendant who purposefully conducts business in a state, thereby using the benefits and  
 3 protections of the forum state’s laws, ‘to submit to the burdens of litigation in that forum as  
 4 well.’” *Id.* (quoting *Burger King v. Rudzewicz*, 471 U.S. 462, 476 (1985). “Jurisdiction may not  
 5 be avoided by a lack of physical contact with the forum state.” *Id.* Even where there was no  
 6 physical contact relating to the claim, the Supreme Court has upheld the assertion of jurisdiction  
 7 over a defendant whose efforts were “intentionally directed” towards the forum state. *See*  
 8 *Calder v. Jones*, 465 U.S. 783, 790 (1984). On the other hand, “a defendant may not be haled  
 9 into a jurisdiction as the result of random, fortuitous or attenuated contacts or based upon the  
 10 unilateral acts of third parties.” *Lake*, 817 F.2d at 1421.

11 “[T]he plaintiff’s residence in the forum State is not a separate requirement, and lack of  
 12 residence will not defeat jurisdiction established on the basis of defendant’s contacts.” *Keeton v.*  
 13 *Hustler Magazine, Inc.*, 465 U.S. 770, 780 (1984). *Keeton* held that personal jurisdiction existed  
 14 even though the plaintiff in that case was not a forum resident. *Id.* *See also Resnick v. Rowe*,  
 15 283 F. Supp. 2d 1128, 1137-38 (D. Haw. 2003) (holding that the plaintiff’s “out-of-state  
 16 residency does not, by itself, defeat jurisdiction.”).

17 There may be no better example of “purposely availing” oneself of the benefits and  
 18 protections of a forum State’s laws than filing a lawsuit in the forum State’s courts. Where a  
 19 nonresident is alleged to have improperly brought a lawsuit in the forum, courts have held that  
 20 personal jurisdiction is appropriate over claims against the nonresident arising from the improper  
 21 lawsuit. *See, e.g., Minerva Marine, Inc. v. Spiliotes*, 2006 U.S. Dist. LEXIS 13939, at \*20-21  
 22 (D.N.J. Mar. 13, 2006) (finding personal jurisdiction over claims against officer and director of  
 23 corporation alleged to have authorized and directed the corporation’s improper filing of lawsuit  
 24 against defendants/third-party plaintiffs, on grounds that “by authorizing the lawsuit, it is clear  
 25 that [the officer] has purposely availed himself of the forum.”).

26 Indeed, even when non-residents obtain *ex parte* court orders in courts *outside the forum*  
 27 and then attempt to use the forum’s law enforcement officers or other enforcement procedures to  
 28

1 enforce such orders, courts have found personal jurisdiction against the non-resident party. *See*,  
 2 *e.g.*, *Lake v. Lake*, 817 F.2d 1416, 1423 (9th Cir. 1987) (finding personal jurisdiction in Idaho  
 3 over attorney who wrongfully obtained *ex parte* order in California state court for purpose of  
 4 enforcement in Idaho by others, even though attorney never entered Idaho).<sup>6</sup>

5 In *Lake v. Lake*, 817 F.2d 1416 (9th Cir. 1987), the court addressed the question of  
 6 whether a non-resident attorney who obtained an allegedly *ex parte* order in California for use in  
 7 Idaho was subject to personal jurisdiction in Idaho for the tort of abuse-of-process. The non-  
 8 resident attorney, working with the mother of a child living in Idaho, obtained an *ex parte* order  
 9 in California awarding temporary custody of a child. The mother then travelled to Idaho, used  
 10 the *ex parte* order to secure the assistance of law enforcement officials, and forcibly took custody  
 11 of the child. The district court dismissed the father's claims against the attorney on the grounds  
 12 that the attorney had not "purposely availed" himself of the laws of Idaho because he had  
 13 obtained the *ex parte* order in California. The court of appeals reversed, holding that the attorney  
 14 knew that the mother "would take the order to Idaho in attempting to gain custody of Brian" and  
 15 that the attorney "intended [the mother] to use the order to obtain the assistance of the  
 16 appropriate authorities there." *Lake*, 817 F.2d at 1423.

17 Similarly, in *Minerva Marine, Inc. v. Spiliotes*, 2006 U.S. Dist. LEXIS 13939, at \*20-21  
 18 (D.N.J. Mar. 13, 2006) a non-resident managing director of a corporation directed the filing of a  
 19 lawsuit against the defendant, and the defendant filed counterclaims naming the director. The  
 20 director filed a motion to dismiss for lack of personal jurisdiction, alleging that because he had  
 21 never set foot in the forum. The court rejected this argument, holding that "[b]y authorizing the  
 22 lawsuit, it is clear that Martinos has purposefully availed himself of this forum." 2006 U.S. Dist.

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23  
 24 <sup>6</sup> *See also Towers v. Hughes*, 1992 U.S. Dist. LEXIS 944, at \*5-7 (D. Or. Jan. 22, 1992) (finding  
 25 personal jurisdiction in Oregon over attorneys who obtained *ex parte* order in New York courts  
 26 for purpose of enforcement in Oregon); *Yahoo! Inc. v. La Lique Contre Le Racisme et*  
 27 *L'Antisemitisme*, 145 F. Supp. 2d 1168, 1173-74 (N.D. Cal. 2001) (finding personal jurisdiction  
 28 in California over French citizens who obtained court order in French court and attempted to  
 enforce order in California).

1 LEXIS 13939 at \*21. “If there was a malicious motive to the lawsuit, it would have been  
 2 foreseeable that Martinos’ conduct and connection with the forum State were such that he should  
 3 reasonably anticipate being haled into court there.” *Id.* (internal quotations omitted) (quoting  
 4 *World Wide Volkswagen Corp.*, 444 U.S. at 297).

5 Here, Defendants do not appear to seriously dispute that the USCF’s filing of the instant  
 6 lawsuit against Mrs. Polgar is “purposeful availment” sufficient to establish personal jurisdiction  
 7 for claims arising from this activity. Nor do they contest Mrs. Polgar’s allegations that they  
 8 personally directed the filing of this lawsuit at every step of the process. Rather, they contend  
 9 that their status as officers of the USCF does not provide the Court with personal jurisdiction  
 10 over them. *See* MTD at 4 (“That some of the third-party defendants are on the board of the  
 11 USCF is insufficient to subject them to personal jurisdiction in California.”). This is true, but  
 12 misses the point entirely. Personal jurisdiction over Plaintiffs does not arise *merely* because they  
 13 are on the USCF board: it arises because Plaintiffs purposely directed and directly participated  
 14 in all of the actions at issue here.

15 As the Supreme Court, Ninth Circuit courts, California courts, and this Court have all  
 16 recognized, while a corporate officer’s mere status as an officer is insufficient to establish  
 17 personal jurisdiction, if the officer authorized, directed, or participated in the corporate conduct  
 18 at issue, personal jurisdiction arises for claims arising from this conduct. *See, e.g., Calder v.*  
 19 *Jones*, 465 U.S. 783, 789-90 (1984) (finding personal liability where employees alleged to have  
 20 directly participated in tortuous acts, holding “[p]etitioners are correct that their contacts with  
 21 California are not to be judged according to their employer’s activities there. On the other hand,  
 22 their status as employees does not somehow insulate them from jurisdiction.”); *Keeton v. Huster*  
 23 *Magazine, Inc.*, 465 U.S. 770, 781 n.13 (1984) (stating that in *Calder* “reject[ed] the suggestion  
 24 that employees who act in their official capacity are somehow shielded from suit in their  
 25 individual capacity.”); *Davis v. Metro Productions, Inc.*, 885 F.2d 515, 521-22 (9<sup>th</sup> Cir. 1989)  
 26 (holding *Calder* rejected the argument that “the existence of a state-created corporate form  
 27 [creates] a due process limit on jurisdiction” and finding personal jurisdiction over corporate  
 28

1 directors that directed corporation's activity into the forum state); *j2 Global Communs., Inc. v.*  
 2 *Blue Jay, Inc.*, 2009 U.S. Dist. LEXIS 1616, \*15 (N.D. Cal. Jan. 5, 2009) ("If acts taken by a  
 3 corporate officer subjects the officer to personal liability (i.e., the corporate officer authorized,  
 4 directed or participated in tortious conduct), and those acts create contact with the forum state,  
 5 such acts are not only acts of the corporation but also acts of the individual, and may be  
 6 considered contacts of the individual for purposes of determining whether long-arm jurisdiction  
 7 may be exercised over the individual."); *Taylor-Rush v. Multitech Corp.*, 217 Cal. App. 3d 103,  
 8 118 (1990) ("The essence of *Calder* is intentional tortfeasors should be prepared to defend  
 9 themselves in any jurisdiction where they direct their alleged tortious activity"); *Seagate Tech. v.*  
 10 *A.J.Kogyo Co.*, 219 Cal. App. 3d 696, 701-02 (1990) ("Directors are jointly liable with the  
 11 corporation and may be joined as defendants if they personally directed or participated in the  
 12 tortious conduct. Directors are liable to third persons injured by their own tortious conduct  
 13 regardless of whether they acted on behalf of the corporation and regardless of whether the  
 14 corporation is also liable. This liability does not depend upon the same grounds as 'piercing the  
 15 corporate veil,' on account of inadequate capitalization for instance, but rather on the officer or  
 16 director's personal participation or specific authorization of the tortious act.").

17 Thus, as this Court has explained:

18 Though employees are not necessarily subject to liability in a given jurisdiction  
 19 due to the contacts of their employers, "their status as employees does not  
 20 somehow insulate them from jurisdiction. Each defendant's contacts with the  
 21 forum State must be assessed individually." *Calder v. Jones*, 465 U.S. 783, 790  
 22 (1984). Accordingly, an employee, officer or director may be subject to personal  
 23 jurisdiction where the individual is a "primary participant" in the alleged  
 24 wrongdoing. *Id.* The assertion of personal jurisdiction based on the primary  
 25 participant theory is appropriate where the individual had "control of, and direct  
 26 participation in the alleged activities." *Wolf Designs, Inc. v. DHR Co.*, 322 F.  
 27 Supp. 2d 1065, 1072 (C.D. Cal. 2004) (citing *Transgo, Inc. v. Ajac Transmission*  
 28 *Parts Corp.*, 768 F.2d 1001, 1021 (9<sup>th</sup> Cir. 1985)).

*Martin Ray Winery*, 2007 U.S. Dist. LEXIS 22858, at \*15-16.

Because of its similarities, *Minerva Marine* is instructive. There, the cross-defendant was  
 a nonresident managing director of a nonresident company that had brought suit against the  
 defendant and counter-plaintiff in the forum. The defendant and counter-plaintiff alleged



1 counterclaims against the company and the managing director for, among other things, abuse of  
 2 process. The managing director argued that the court lacked personal jurisdiction over counter-  
 3 plaintiff's claims against him because his company had brought the action against the defendant,  
 4 not him. He further alleged that he was not a United States citizen, had never resided in the  
 5 United States, owns no bank accounts or personal property in the forum State, nor recalled ever  
 6 travelling there even once. *Minerva Marine, Inc. v. Spiliotes*, 2006 U.S. Dist. LEXIS 13939, at  
 7 \*16-17 (D.N.J. Mar. 13, 2006). The counter-plaintiff, however, alleged that the managing  
 8 director had "personally" ordered the lawsuit, and the managing director admitted that "he made  
 9 the final decision to file the lawsuit." *Id.* at \*21. The court held that under *Caldor, Keeton*, and  
 10 many other cases, the managing director "cannot shield himself from jurisdiction through  
 11 Minerva if he is alleged to have individually participated in the tort," and that by "authorizing the  
 12 lawsuit," he left himself open to personal jurisdiction for the tort of abuse of process. *See id.*

13 Also relevant is *Wolf Designs, Inc. v. DHR & Co.*, 322 F. Supp. 2d 1065 (C.D. Cal.  
 14 2004). There, the defendant individual officer admitted that he was the "prime moving force" in  
 15 the policies and decisions of the company, and, moreover, was the specific officer who made the  
 16 decisions to direct the company's acts giving rise to jurisdiction over the company and the  
 17 plaintiffs' claims. *See Wolf*, 322 F. Supp. 2d at 1072-73. The court held that his "control of, and  
 18 direct participation in the alleged activities" gave rise to personal jurisdiction.

19 In *j2 Global Communs., Inc. v. Blue Jay, Inc.*, 2009 U.S. Dist. LEXIS 1616, \*15 (N.D.  
 20 Cal. Jan. 5, 2009), plaintiffs, the owner of "efax" services, brought various tort claims against the  
 21 defendant, a non-resident unsolicited "junk fax" advertiser that was responsible for sending  
 22 thousands of faxes to the plaintiffs' customers. The plaintiff included one of the defendant's  
 23 officers as a co-defendant. The officer, a nonresident, contended that the court lacked personal  
 24 jurisdiction over the plaintiffs' claims because he did not live in the forum and did not send the  
 25 faxes at issue. 2009 U.S. Dist. LEXIS 1616, at \*21-22. The court rejected this argument,  
 26 holding that personal jurisdiction was proper because the defendant was alleged to have hired  
 27 agents to send the faxes, directed these agents to send the faxes, and was otherwise the "guiding  
 28

1 spirit” and the “central figure” behind the faxes. *Id.* at \*23-25.

2 Here, Mrs. Polgar has alleged that Plaintiffs took control of USCF and improperly  
3 authorized the lawsuit and controlled it every step of the way. Plaintiffs do not contest that they  
4 were the ones directing the filing of the instant lawsuit, the use of the “Jane Doe” procedures, the  
5 vigorous discovery pursued in California, or their interference with Mrs. Polgar’s  
6 indemnification of the California lawsuit. In fact, they have offered numerous declarations and  
7 pleadings throughout this litigation in which they have repeatedly admitted that they were the  
8 ones that directed these actions.

9 Plaintiffs contend that Mrs. Polgar’s Cross-Complaint “does not allege that [they]  
10 performed any activities within or towards individuals or events within the State of California  
11 [sic].” MTD at 5. They appear to be claiming that because their “meetings” were held outside of  
12 California, there are no “forum related” activities. Literally every case cited above contradicts  
13 this point. The fact that they did not *personally* enter California to meet together or personally  
14 themselves file the instant lawsuit is *irrelevant* to the issue of whether they *directed* the filing of  
15 a lawsuit in California state courts and other acts within the State of California. They did.

16 In fact, if anything, the case for personal jurisdiction over Plaintiffs is even stronger here  
17 than in any of the cases cited above, because Plaintiffs acted without the authorization of the  
18 USCF to take any of these acts and in direct violation of numerous USCF bylaws. A finding of  
19 *ultra vires*, however, is not a requirement for personal jurisdiction. As the cases cited above  
20 demonstrate, officers and directors of a corporation may be held liable for acts taken by a  
21 corporation *even where ultra vires* is not issue. So long as the individual officers were the ones  
22 directing that the acts take place or were the “moving force” behind these acts, personal  
23 jurisdiction is appropriate. That is the case here. Personal jurisdiction is therefore appropriate.

24 **B. Mrs. Polgar’s Claims “Arise Out Of And Relate To” Plaintiffs’ Forum-  
25 Related Activities.**

26 The second requirement for specific jurisdiction is that Plaintiffs’ forum-related activities  
27 must be the ones that give rise to the current suit. Courts measure this requirement in terms of  
28 “but for” causation. *See, e.g., Wolf Designs*, 322 F. Supp. 2d at 1973. Plaintiffs’ only argument



1 on this point is that because their “meetings” took place outside of California, there can be no  
2 causation. This argument fails for the reasons discussed above.

3 **C. Plaintiffs Have Failed To Meet Their Heavy Buren Of Showing That The**  
4 **Exercise Of Personal Jurisdiction Would Be “Unreasonable” Under The Due**  
5 **Process Clause.**

6 The final requirement for specific jurisdiction is reasonableness. For jurisdiction to be  
7 reasonable, it must comport with fair play and substantial justice. *See Burger King*, 471 U.S. at  
8 476. As the Ninth Circuit has stated, “once purposeful availment has been established, the  
9 forum's exercise of jurisdiction is presumptively reasonable.” *Shute v. Carnival Cruise Lines*,  
10 897 F.2d 377, 386 (9<sup>th</sup> Cir. 1990). “To rebut that presumption, a defendant ‘must present a  
11 compelling case’ that the exercise of jurisdiction would, in fact, be unreasonable.” *Id.* (citing  
12 *Burger King*, 471 U.S. at 476).

13 The “reasonableness” determination requires the consideration of several specific factors:  
14 (1) the extent of the defendant’s purposeful interjection into the forum state, (2) the burden on  
15 the defendant in defending in the forum, (3) the extent of the conflict with the sovereignty of the  
16 defendant’s state, (4) the forum state’s interest in adjudicating the dispute, (5) the most efficient  
17 judicial resolution of the controversy, (6) the importance of the forum to the plaintiff’s interest in  
18 convenient and effective relief, and (7) the existence of an alternative forum. *Burger King*, 471  
19 U.S. at 476-77.

20 Here, the extent of the defendants’ purposeful interjection into California, and  
21 California’s interest in adjudicating this dispute here, weigh heavily in favor of reasonableness.  
22 Purposely “tak[ing] advantage of [the forum’s] laws and authorities” is probably the perfect  
23 example of purposely availing the benefits of a forum. *See Lake*, 817 F.2d at 1423 (finding  
24 exercise of personal jurisdictional reasonable in light of defendant’s “purposeful direction of his  
25 efforts in procuring the ex parte order to take advantage of Idaho’s laws and authorities.”). The  
26 extent of Plaintiffs’ purposeful interjection, and the interest of the forum state in adjudicating the  
27 dispute, is *even stronger* here than in *Lake* because here, the Plaintiffs’ *ex parte* legal actions  
28 were taken in the forum state, and Plaintiffs took them *repeatedly* by both filing a “Jane Doe”

1 lawsuit and then taking vigorous discovery through subpoenas to numerous businesses, many of  
2 which have offices and/or are incorporated in California. As *Plaintiffs themselves* have  
3 recognized, California has a “significant interest” in preventing “unauthorized access” into the  
4 accounts of internet companies such as Yahoo!, Google, and Anonymizer. See Pls.’ Opp. to  
5 Mot. To Transfer (Docket No. 68) at 14-15. That is *exactly what Plaintiffs themselves did* when  
6 they misused the “Jane Doe” procedures and sought vigorous discovery against these very  
7 companies into Mrs. Polgar’s private affairs without notice to her. As Plaintiffs themselves  
8 recognize, “these companies, and Northern California as a whole, have an interest in addressing  
9 such misconduct in California.” *Id.* See also *id.* (“California has an interest in having its own  
10 courts apply its laws, particularly when they affect businesses residing in California.”).

11 Plaintiffs also contend that Texas would be a more “convenient” and “appropriate”  
12 forum. First of all, Plaintiffs’ claims concerning any hardship in litigating in this forum fail out  
13 of the gate. They admit that they chose this forum. They even fought vigorously to prevent the  
14 transfer to the very court they now propose should here it. Moreover, as this Court has implicitly  
15 held, transfer of this action to Texas would be inappropriate. Plaintiffs themselves have noted  
16 that the convenience of the “majority of third party witnesses” are located here in California.  
17 Pls.’ Opp. To Mot. To Transfer (Docket No. 68) at 9-11. These witnesses are important to Mrs.  
18 Polgar’s claims, because they will further establish that Plaintiffs learned *nothing* that would  
19 cause them to amend their fake “Jane Doe” lawsuit to name her, and had instead been planning  
20 to name her prior to filing.

21 As for “efficiency,” this factor weighs very strongly in personal jurisdiction here. The  
22 Plaintiffs’ actions leading up to and during the pendency of this lawsuit and their decision to file  
23 the instant lawsuit are all directly relevant to Mrs. Polgar’s claims here. It cannot seriously be  
24 contended that adjudication of her counterclaims for abuse of process and breach of fiduciary  
25 duty in Texas while adjudication of the instant lawsuit proceeds here would be “efficient.” To  
26 even state this premise is to show its falsity.

27 Finally, Plaintiffs repeatedly claim that the USCF and Mrs. Polgar have virtually no  
28

1 contracts and that their actions have no effects at all in California. As demonstrated above, this  
 2 is simply not the case. The USCF has extensive contacts in California. Moreover, Mrs. Polgar,  
 3 as the number one female chess player in the United States, regularly travels here, and does  
 4 business here. The effect of Plaintiffs' breaches of fiduciary duty to Mrs. Polgar and their  
 5 ongoing campaign to harass her and deny her the ability to perform her duties as an elected board  
 6 member on the USCF has an obvious impact on the over 9,000 USCF members located in  
 7 California and the USCF's extensive activities in this state. Plaintiffs' contentions that they and  
 8 Mrs. Polgar are strangers to California is simply wrong, and, while not the principal basis of  
 9 personal jurisdiction, Mrs. Polgar believes it is important to correct Plaintiffs' misrepresentations  
 10 on this issue.

11 **D. Should The Court Find A Lack Of Sufficient Showing Of Personal**  
 12 **Jurisdiction As To Any Of The Third Party Defendants, Mrs. Polgar**  
 13 **Respectfully Requests The Court To Wait To Rule Until After Mrs. Polgar Is**  
 14 **Able To Obtain Adequate Discovery Responses From Plaintiffs.**

15 If, for any reason, the Court finds that an insufficient showing at this stage as to any of  
 16 the Third Party Defendants, Mrs. Polgar respectfully requests that the Court wait to rule in order  
 17 until such time as Mrs. Polgar obtains proper responses to its outstanding discovery requests. As  
 18 set forth in more detail in Mrs. Polgar's pending motion to compel, as well as the June 11, 2009  
 19 letter to the Court pursuant to Standing Order No. 6, Plaintiffs have refused to provide numerous  
 20 documents and emails that are extremely likely to demonstrate even more clearly the Plaintiffs'  
 21 personal, direct role in directing the filing of the lawsuit in California, the discovery taken in  
 22 California, and the denial of Mrs. Polgar's request(s) for indemnification of the California action.  
 23 They have also refused to provide any responses to Mrs. Polgar's interrogatories other than  
 24 blanket objections and referrals to unspecified documents.

25 Alternatively, Mrs. Polgar requests that the Court grant her leave to amend in the event  
 26 Plaintiffs' motion is granted in any way.

27 //

28 //

//

1 **V. CONCLUSION**

2 For the reasons set forth above, the Court should deny Plaintiffs' motion to dismiss for  
3 lack of personal jurisdiction in its entirety.

4 Dated: September 8, 2009

GONZALEZ & LEIGH, LLP

6 By: /s/ Matthew R. Schultz

7 Matthew R. Schultz  
8 Attorneys for Defendant  
9 SUSAN POLGAR  
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